

“ELIZABETH MARY”—OWNERS OF.

[To accompany Bill H. R. No. 721.]

May 18, 1860.

Mr. E. B. WASHBURN, from the Committee on Commerce, submitted the following

REPORT.

Your Committee, referring to the following letter of the Secretary of State, and the papers submitted therewith, recommend the passage of the accompanying bill :

DEPARTMENT OF STATE,
Washington April 2, 1860.

SIR: The enclosed copy of papers has reference to the remission of a fine which was imposed upon Thomas Young and George Young, owners of the schooner “Elizabeth Mary,” of Prince Edward’s Island, by the New York custom-house, for an infraction of the revenue laws.

It appears that that vessel cleared from the port of the city of Charlottetown, Prince Edward’s Island, for the city of New York, in June, 1856, having on board a cargo of oats, upon which no duty was payable, consigned to Arthur Leary, a merchant of the last named city, together with a small box of worn or second-hand clothing, which had been sent by a Mrs. Widgery, of Prince Edward’s Island, to a poor relative in New York, who, on the arrival of the vessel at that port, went on board for the clothing referred to, which was given to him by the mate of the vessel, in ignorance that any permit was necessary, and without any intention to defraud the revenue. The box of clothing having, however, been placed on the manifest when the vessel entered, and no permit being granted for its landing, on the report of this fact to the custom-house office a fine of four hundred dollars was at once imposed upon the vessel and owners. As it seems obvious that the offence was technical merely, and as there could scarcely have been any intention to defraud the revenue, or any object in so doing, I recommend the case to the favorable consideration of the committee over which you preside.

I have the honor to be, sir, your obedient servant,

LEWIS CASS.

Hon. E. B. WASHBURN,
*Chairman of the Committee on Commerce,
House of Representatives.*

HER BRITANNIC MAJESTY'S LEGATION,
Washington, February 14, 1858.

SIR: I have the honor to submit to you herewith copies of documents forwarded to me by her Majesty's consul at New York in illustration of the circumstances under which Thomas Young and George Young, British subjects, inhabitants of Prince Edward's Island, and owners of the schooner "Elizabeth Mary," have been fined in the amount of \$400 at the port of New York.

It appears that the schooner above mentioned took on board, in addition to her regular cargo of oats, a box alleged to have contained old wearing apparel, which was duly entered on the manifest, but which was carried on shore at New York without a permit. The memorialists allege that this irregularity was committed without any fraudulent intention, and they solicit the remission of the fine.

Mr. Leary, the merchant to whom the vessel was consigned at New York, has stated to me his strong impression that the error was one of carelessness or ignorance on the part of the master of the schooner, and that there was no design whatever to defraud the revenue.

I venture to express my hope that, on reference to the proper sources at New York, you may find the case worthy of a favorable consideration, and that the amount of fine may be refunded to Messrs. Young by the federal authorities.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

NAPIER.

HON. LEWIS CASS, &c., &c., &c.

CHARLOTTETOWN, PRINCE EDWARD'S ISLAND,
British North America, January 23, 1858.

SIR: The grievance concerning which I have the honor to address you on behalf of two British subjects, belonging to this island, is one which I believe it comes within your province, as British consul at New York, to endeavor to have redressed, and I therefore flatter myself that you will promptly and cheerfully cause such an investigation of the case (as it is set forth in the accompanying duly authenticated documents) to be made as may lead to a redress of the wrongs which it would appear the complainants have sustained at the hands of the custom-house authorities at New York.

A careful and patient perusal of the said documents (which you will no doubt bestow upon them) will, I imagine, put you fully in possession of the real merits of the case, and afford you a sufficient foundation whereon to bring it, for due consideration, before the proper authorities, either in New York or in Washington.

The affidavit of Mrs. Widgery, alluded to in the accompanying affidavit of the complainants, was transmitted from this place to Mr. Arthur Leary, merchant, New York, (the same named in the accompanying affidavit of the complainants,) to be by him laid before the

custom-house authorities of New York, and it is presumed it will be found in their possession.

As the agent here in this business for the complainants, I beg leave most respectfully to request that, on their account, I may be honored with a reply to this application as soon as you shall be in a condition to afford one.

I have, &c., &c., &c.,

ROBERT BLAKE IRVING,
Notary Public.

E. M. ARCHIBALD, Esq.,
H. M. B. Consul, New York.

P. S.—In event of your application on behalf of the complainants proving ineffectual, you will, I presume, consider it proper to return the enclosed documents to me, for the use of the said parties, in case they should choose to prosecute their claim in any other way or through any other channel.

Your obedient servant,

R. B. IRVING.

PRINCE EDWARD'S ISLAND,
City of Charlottetown, British North America.

To all to whom these presents shall come: I, Robert Blake Irving, notary public, duly commissioned and sworn, dwelling at Charlottetown aforesaid, do hereby certify, of my own actual individual knowledge that the accompanying documents, marked by me "A No. 1, R. B. I'g, and A No. 2, R. B. I'g," are duly what they purport to be.

In testimony whereof, I have hereunto set my hand and seal of office, subscribed and set this 23d day of January, 1858.

ROBERT BLAKE IRVING,
Notary Public.

To the controlling authority or authorities in the custom-house of New York, United States of America, or to the higher authority or authorities of the United States having the power of supervision over the said custom-house:

The very respectful petition of Thomas Young and George Young, of Prince Edward's Island, British North America, the owners of the schooner "Elizabeth Mary," of and belonging to the said island, sheweth:

That the said owners consider themselves to be justly entitled to the remission of a fine of four hundred dollars to which, under the circumstances detailed in the annexed affidavit, they were subjected by the authorities of the said custom-house.

That, from a fair view and candid consideration of the case, they

apprehend it will and must appear that, with respect to the said box and its contents, there could have been no intention to defraud the said custom-house of any dues, as it will appear on reference to the affidavit in this matter of Mrs. Widgery, of Charlottetown, Prince Edward's Island, aforesaid, (which affidavit has been already forwarded to the custom-house authorities at New York,) that the said box contained nothing but *old wearing apparel*.

That the accompanying affidavit has been duly sworn, as testified by William B. Dean, esq., consul in this island for the United States.

Your petitioners, therefore, respectfully pray that the facts contained in the following affidavit and in the affidavit of Mrs. Widgery may be duly considered, and restitution of the said fine (imposed, no doubt, under false impressions with respect to the real merits of the case) may forthwith be made; and that in case of such a favorable determination with respect to this their petition, the amount of the remitted fine may be transmitted for their behoof to William B. Dean, esq., the consul in the said island, Prince Edward's, for the United States. And your petitioners, as in duty bound, will ever pray.

THOMAS YOUNG.
GEORGE YOUNG.

CITY OF CHARLOTTETOWN,

Prince Edward's Island, British North America,

September 25, 1856.

CITY OF CHARLOTTETOWN,

Queen's county, Prince Edward's Island,

British North America.

Personally appeared before me, Robert Hutchinson, one of her Majesty's justices of the peace for the said county, this 25th day of September, in the year of our Lord 1856, Thomas Young and George Young, of the said island, and having been duly sworn by me upon the Holy Evangelists, they, the said Thomas Young and George Young, severally make oath and say that they are the owners of the schooner "Elizabeth Mary," of and belonging to the said island; that, on the — day of June, 1856, William Furneaux, as master of the said schooner, cleared her, the said schooner, from the port of the said city of Charlottetown for the city of New York, United States of America, having on board thereof a cargo of oats, consigned to Arthur Leary, merchant, of New York aforesaid, together with one box, shipped by Mrs. Widgery, of the city of Charlottetown aforesaid, and containing, according to her affidavit concerning the same, nothing but a quantity of old wearing apparel, and addressed to Robert Mackie, a brother-in-law of her, the said Mrs. Widgery, now or then residing in New York aforesaid; that the said box was duly entered on the manifest of the said vessel previously to her leaving the said port, and that the same was duly reported at the custom-house on the arrival of the said vessel at New York; that it seems the said box was delivered to the said Robert Mackie, by or at least in the presence of the said master,

William Furneaux, and landed without a permit from the custom-house at New York; that they, the deponents, the owners of the said vessel, were not aware until they went to the said custom-house to have the said vessel cleared for this port, (the aforesaid port of Charlottetown,) that the said master, William Furneaux, had not obtained a permit authorizing the landing of the said box; that they, the said owners, then endeavored to clear up the matter so as to exculpate themselves from all suspicion of having meditated fraud upon the custom-house aforesaid; but that as Robert Mackie, to whom the said box was addressed, was unwilling to disclose the contents thereof, they failed in establishing their case, and were, in consequence of their so failing, fined to the amount of four hundred dollars; which sum they had to pay, or cause to be paid, to the authorities of the said custom-house before they could procure a clearance for the said vessel.

THOMAS YOUNG.
GEORGE YOUNG.

Sworn, this 26th day of September, 1856, before me.

ROBT. HUTCHINSON,
Justice of the Peace for Queen's county, P. E. Island.

Sworn and signed by the deponents in my presence.

WILLIAM B. DEAN,
Consular Agent, United States of America.

DEPARTMENT OF STATE,
Washington, February 16, 1858.

SIR: I have the honor to submit to your consideration the enclosed copy of a communication of the 14th instant, addressed to this department by Lord Napier, relative to the remission of a certain fine imposed upon Thomas Young and George Young, owners of the schooner "Elizabeth Mary," of Prince Edward's Island, for an infraction of the revenue laws of the United States.

I have, &c.,
Hon. HOWELL COBB,
Secretary of the Treasury.

LEWIS CASS.

TREASURY DEPARTMENT, *March 4, 1858.*

SIR: I have the honor to acknowledge the receipt of your letter of the 16th ultimo, enclosing a communication from Lord Napier relative to the remission of a certain fine imposed upon Thomas Young and George Young, owners of the schooner "Elizabeth Mary," and, in reply, to state that the matter is now beyond the control of this department, the parties having failed to comply, as directed, with the provisions of the mitigating and remitting act of March 3, 1797; the

fine was distributed, and the United States proportion paid into the treasury in September, 1856.

Without further legislation the department has no power of granting relief in the case.

Very respectfully, your obedient servant,

HOWELL COBB,
Secretary of the Treasury.

Hon. LEWIS CASS,
Secretary of State.

DEPARTMENT OF STATE,
Washington, March 8, 1858.

MY LORD: I have the honor to acknowledge the receipt of your communication of the 14th ultimo, relative to the reimbursement of a certain fine imposed at the port of New York upon Thomas Young and George Young, owners of the schooner "Elizabeth Mary," of Prince Edward's Island.

In reply, I have the honor to transmit to you herewith the copy of a letter of the 4th instant addressed to this department by the Secretary of the Treasury, from which it will be seen that, for reasons therein stated, the matter is now entirely beyond his control, and would require the legislation of Congress to enable him to carry into execution your lordship's wishes on the subject.

I have the honor to be, my lord, with high consideration, your lordship's obedient servant.

LEWIS CASS.

Lord NAPIER, &c., &c., &c.

WASHINGTON, *March 29, 1860.*

SIR: I am earnestly requested to solicit from the federal government the repayment of a fine levied in the year 1856 by the custom-house of New York upon a small schooner named the "Elizabeth Mary," belonging to Messrs. Thomas and George Young, of Prince Edward's Island.

The case, as stated in the papers which I have the honor to enclose, appears to be one of peculiar hardship. I trust, therefore, that notwithstanding the long time which has elapsed since the fine was imposed, the prayer for the remission of it may be taken into favorable consideration.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS, &c., &c., &c.

HER BRITANNIC MAJESTY'S CONSULATE,
New York, March 23, 1860.

MY LORD: I have the honor to call your lordship's attention to the fact of a peculiar case of hardship upon two poor men, the owners of a small schooner belonging to Prince Edward's Island, in the levying upon them of a fine of four hundred dollars for a breach of the custom-house regulations of this port; and I have respectfully to solicit your lordship's interposition with the federal government for the purpose of obtaining a repayment of the fine in question.

It appears that so long ago as the year 1856 the schooner "Elizabeth Mary," belonging to Messrs. Thomas and George Young, of Prince Edward's Island, brought to this port a cargo of oats, upon which no duty was payable. By that vessel a Mrs. Widgery, at Prince Edward's Island, sent a small box of worn or second-hand clothing to a poor relative in this city named Robert McKie. On the arrival of the vessel, McKie, it appears, went on board the vessel for the clothing in question, which was given to him by the mate of the vessel in ignorance that any permit was necessary, and without any intention to defraud the revenue.

The box of clothing having, however, been placed on manifest when the vessel entered, and no permit being granted for its landing, on the report of this fact to the custom-house office a fine of \$400 was at once imposed upon the vessel and owners, which doubtless, although in conformity with the law, appears greatly disproportioned to the nature and circumstances of the offence, and, considering the smallness of the vessel and the poverty of her owners, has been, as I am informed, almost ruinous in its consequences to the Messrs. Young.

I would beg leave to refer your lordship for the facts of this case to the accompanying letter of Mr. Arthur Leary, a merchant of this city, of high character and standing, who was the consignee of the vessel at the time. I learn, moreover, that affidavits of all the circumstances made by the Messrs. Young and by Mrs. Widgery were laid before the collector at this port some time after the fine had been levied, but who stated his inability to remit it. These affidavits, Mr. Leary informs me, will be found in the office of the Secretary of the Treasury at Washington.

Late as it now is to apply for a remission of the fine in question, I cannot but feel a confidence that the government of the United States, when your lordship shall have laid the circumstances of the case before the proper department, will view with favor the appeal of these poor men for the remission of a penalty so severe and burdensome, for an offence which arose purely from ignorance on the part of the mate of the schooner in question, even if, after so great a lapse of time, it should be necessary to embrace in an act of Congress permission for the remission or reduction of the fine.

I beg to enclose, herewith, copies of two letters from the attorney of the Messrs. Young, and also Mr. Leary's letter.

I have, &c.,

E. M. ARCHIBALD.

Lord LYONS, &c., &c., &c.

Extract of a letter from Robert B. Irving, esq., to Consul Archibald, dated

CHARLOTTETOWN, P. E. ISLAND,
October 14, 1858.

I lately laid the whole matter before the United States consul, recently appointed to reside here, and, in consequence of the very favorable view of the claim of my clients entertained by him, I have been induced again to solicit your kind official intervention in the business, to the end that it may be rectified, and justice therein done to my clients.

The United States consul here, having fully considered the matter, has told me that, provided an application be made by you through the British ambassador to the American government for the inception in Congress for the passing of an act to empower restitution of the fine from the Treasury Department, the application will be cheerfully complied with, and its repayment, he doubts not, follow in due course of time. Having expressed himself to me to this effect, he further said, that in renewing my application to you on the subject, I might say "*that I was encouraged by him to do so, because he felt certain that on its being shown to the United States government that the fine had been imposed through a misapprehension of the real facts of the case, they themselves would be truly anxious that it should be returned to the parties who had had the misfortune to be obliged to pay it.*"

Since I first applied to you concerning this business, the suffering parties have sustained such losses at sea as have brought them into circumstances of great pecuniary difficulties, and could the amount of the fine in question be recovered by them, it would be of great service to them. I doubt not you will again, as you have already done, use every effort to obtain the remission so justly and reasonably sought by my clients.

NEW YORK, March 22, 1860.

MY DEAR SIR: Your note of yesterday has had my attention. The facts connected with the fine in the case of the schooner "*Mary Elizabeth*" are these: A box or trunk of clothing was put on board at Prince Edward's Island directed to some person here; that party went on board the vessel, and the mate delivered it to him; he had no permit from the custom-house, nor did the mate know that one was necessary. The box in question was entered on manifest when the vessel was entered, and the officer, in making the return to the custom-house, found no permit, and at once the fine was imposed. I regarded the case as one of great hardship, and begged the collector to prevent its being enforced, as the whole matter was too plain to allow a question as to the cause; it was merely an error. The clothes were worth almost nothing. An officer had been on board the vessel, I learned and believe, but a few minutes during her stay. The cargo of grain was free of duty.

Yours truly, &c., &c.

ARTHUR LEARY.

E. M. ARCHIBALD, Esq., &c., &c., &c.